

**REMARKS**

**I. Introduction**

Claims 1, 4, 5, 8 – 12, 15, and 18 – 40 are pending in the above-identified application. In view of the following remarks, Applicants respectfully submit that all pending claims are in condition for allowance.

**II. Claim Rejections Under 35 U.S.C. §§ 102 and 103**

Claims 1, 4, 5, 8-12, 15, 21-23, and 25 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Pleso (U.S. Patent No. 6,009,480). Claims 18 – 20 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable of Pleso in view of Yarra. Claims 26 – 32 and 34-39 stand rejected under § 103(a) as allegedly being unpatentable over Pleso in view of Wright. Claims 33 and 40 are rejected under § 103(a) as allegedly being unpatentable over Pleso in view of Yarra and Wright. Applicants traverse these rejections for at least the following reasons.

Claim 1 recites, among other things, a method of installing a software program in a host device, said software program being required for said host device to communicate with a peripheral device, wherein said software program is an application for executing a functional operation associated with an operation of said peripheral device. Independent claims 5, 9, 11, 27, and 34 include similar features. At least this feature is not disclosed or suggested by any of the cited references, alone or in combination with each other.

The Examiner once again asserts that Pleso discloses that the device drivers may be JAVA applications. It appears that the Examiner has misunderstood the scope of the Pleso reference. Pleso appears to disclose that device drivers may be written using the JAVA programming

language. Pleso explicitly recites that “the peripheral device driver file may be suitably coded in JAVA or other cross platform procedural programming language (e.g., “C”)” (col. 13 lines 36-39). That is, the JAVA programming language may be used to create a device driver. Pleso does not, however, disclose or even suggest creating an application program using the JAVA programming language and installing this application program as recited in claim 1, 5, 9, 11, 27, and 34.

Moreover, with regard to independent claims 5 and 34, Pleso also fails to disclose the step of determining if said host device comprises a copy of said software program stored in a memory device contained in said host device. The Examiner refers to column 11, lines 7 – 10 of Pleso as allegedly disclosing this feature. As the Examiner admits, this passage refers to determining whether a device driver is needed. However, the claims are directed to determining if said host device comprises a copy of said software program, wherein said software program is an application for executing a functional operation associated with an operation of said peripheral device. As previously explained, an application program and a driver are different, and Pleso is directed only to driver programs.

Accordingly, as anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), and Pleso fails to disclose at least the above described elements, it is clear Pleso does not anticipate any of the independent claims.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are

contained in the dependent claims, *Harness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as the independent claims are patentable for at least the reasons set forth above, it is respectfully submitted that all dependent claims are also in condition for allowance. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

**III. Conclusion**

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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